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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,018	02/26/2004	Russell Norman Owen	13210-24	3539
1059 7590 02/13/2009 BERESKIN AND PARR 40 KING STREET WEST BOX 401 TORONTO, ON M5H 3Y2 CANADA				
EXAMINER RICEK, JASON D				
ART UNIT 2442		PAPER NUMBER		
MAIL DATE 02/13/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/786,018	OWEN ET AL.
Response to Rule 312 Communication	Examiner	Art Unit
	JASON RECEK	2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 10 February 2009 under 37 CFR 1.312 has been considered, and has been:

- a) ☐ entered.
- b) ☐ entered as directed to matters of form not affecting the scope of the invention.
- c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

- d) ☒ disapproved. See explanation below.
- e) ☐ entered in part. See explanation below.

Applicant states that claim 4 has been amended for antecedent issues and thus does not require additional search or consideration. However this change cancels the phrase "the step of" which also happens to change the scope of the claim by eliminating 112 paragraph 6 consideration. As applicant is likely aware the terms means for and step for invoke an alternative claim construction which only covers what is described by the specification. Although this amendment may relate to an antecedent issue it also changes the scope of the claim and thus requires further search and consideration.

The addition of the dependent claims is also denied entry. Applicant has not given a sufficient reason why this amendment was not presented earlier. The statement that the omission of the claims was only recently noticed in a review is not sufficient because applicant should have reviewed the claims before now.

The information disclosure statement (IDS) submitted on February 6th 2009 was filed after the mailing date of the Notice of Allowance on 11/26/08. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2442

/Jason Recek/
Examiner, Art Unit 2442